

ar 30. (Amended) A kit as recited in claim 26, wherein said gaseous oxygen source includes a solid material which generates gaseous oxygen upon contact with water.

31. (Amended) A kit as recited in claim 26, wherein a chemical air-revitalization compound serves as both said gaseous oxygen source and said carbon dioxide scrubber.

Remarks

The preceding amendments and following remarks are submitted in response to the Official Action of the Examiner mailed December 10, 2001, setting a three month shortened statutory period for response ending March 10, 2002. Claims 26-31 remain pending in this Divisional Application. Reconsideration, examination and allowance of all pending claims are respectfully requested.

First, Applicant has amended Figure 1 to include a legend indicating that Figure 1 is prior art. See Application at page 4, line 10 to page 5, line 9 (describing a building having a conventional HVAC system). A red-ink copy of amended Figure 1 is enclosed herewith for approval by the Examiner.

In paragraph 2 of the Office Action, the Examiner rejected claims 1, 2, 9-11, 20 and 24-28 under 35 U.S.C. § 103(a) as being unpatentable over Berry (U.S. Patent No. 6,293,861) in view of Dosch et al. (U.S. Patent No. 5,113,854).

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In paragraph 3 of the Office Action, the Examiner rejected claims 3 and 4 under 35 U.S.C. § 103(a) as being unpatentable over Berry in view of Dosch et al. (5,113,854) as applied to claim 2 above, and further in view of Mulcahy (U.S. Patent No. 4,901,715).

In paragraph 4 of the Office Action, the Examiner rejected claims 5-8, 12-15, 21-23, 30 and 31 under 35 U.S.C. § 103(a) as being unpatentable over Berry in view of Dosch et al. as applied to claim 1 above, and further in view of the "Admitted Prior Art" contained in Applicant's specification at page 7, line 19 to page 11, line 6.

In paragraph 5 of the Office Action, the Examiner rejected claims 16-19 under 35 U.S.C. § 103(a) as being unpatentable over Berry in view of Dosch et al. as applied to claim 13 above, and further in view Rodriguez (U.S. Patent No. 5,570,477).

In response to the rejection of claims 1-25 under 35 U.S.C. § 103(a) as set-forth above, Applicant would like to respectfully point out that the present application is a Divisional of co-pending prior Application Serial No. 09,360,036, originally filed on July 23, 1999. This is recorded in the corrected filing receipt mailed September 10, 2001.

The present Divisional Application stems from a three-way restriction requirement made by the Examiner on or about September 14, 2000. Contrary to the Office Action Summary sheet accompanying the current Office Action, only claims 26-31 (drawn to a kit for sealing a room) remain pending. Claims 1-25 were canceled in paragraph 3 of the Request for Divisional Application filed by Applicants on March 27, 2001. Accordingly, Applicant asserts that the rejection of claims 1-25 under 35 U.S.C. § 103(a) is improper.

With respect to pending claims 26-31, Applicant respectfully asserts that the primary reference relied upon by the Examiner to reject these claims under 35 U.S.C. §

103(a) is not prior art. 35 U.S.C. § 102(e) provides, *inter alia*, that an individual is entitled to a patent unless the invention was described in an application for patent by another filed in the United States before the invention by the applicant, or was described in a patent granted on an application by another filed in the United States before the invention by the applicant for patent.

The Berry reference (U.S. Patent No. 6,293,861) relied upon by the Examiner has a filing date of September 3, 1999. Thus, the effective filing date of the Berry reference is September 3, 1999. The present Divisional Application has an effective filing date of July 23, 1999 (the filing date of the parent Application Serial No. 09,360,036). Thus, the effective filing date of the present application is prior to the effective date of the Berry reference. Since the effective filing date of this Division Application antedates the effective date in Berry, Applicant respectfully asserts that Berry is not prior art, and that the rejection of claims 26-31 under 35 U.S.C. § 103(a) is improper. Even assuming, *arguendo*, that Berry is a proper prior art reference, Applicant asserts that none of the cited references, either alone or in combination with Berry, teach or suggest Applicant's claimed invention. Accordingly, Applicant respectfully asserts that claims 26-31 are in condition for allowance.

In paragraph 6 of the Office Action, the Examiner rejected claims 1-8 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particular point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner states that there is insufficient structure in claim 1 (*see* page 12, lines 6-7) to support the function "wherein said room is substantially sealed off from said air return and supply ducts...."

In response to this rejection, Applicant reiterates that only claims 26-31 are pending in this Divisional Application, not claims 1-8. As such, Applicant respectfully asserts that the rejection of claims 1-8 under 35 U.S.C. § 112, second paragraph, is improper, and that no amendment to the claims is necessary.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned "Version with Markings to Show Changes Made."

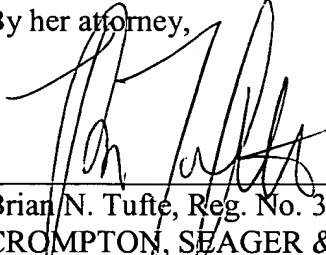
In view of the foregoing, all of pending claims 26-31 are believed to be in condition for allowance. Reexamination and reconsideration are respectfully requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By her attorney,

Date March 6, 2002



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Version with Markings to Show Changes Made

In the Claims

Claims 27, 30 and 31 have been amended as follows:

27. (Amended) A kit as recited in claim 26, wherein said sealing device is selected from the group consisting of inflatable gas bladders, polymeric foam generators, cured foam blocks, and sealing tape.

30. (Amended) A kit as recited in claim 26, wherein said gaseous oxygen [generator] source includes a solid material which generates gaseous oxygen upon contact with water.

31. (Amended) A kit as recited in claim 26, wherein a chemical air-revitalization compound serves as both said gaseous oxygen [generator] source and said carbon dioxide scrubber.